

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: JUN 28 1995

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification
Number:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] in [REDACTED]

The purposes for which the corporation was formed are to "provide educational opportunities to women to enable them to develop the skills necessary to cooperatively purchase, renovate, and occupy urban property."

The information submitted with your application Form 1023 indicates that your primary activity is "to recruit, train and screen individuals in the skills and responsibilities of homeownership, cooperative self-management, living together and creating a supportive community". "Present and future plans make no gender distinction although it is expected that the majority of users will be midlife women of moderate and low income who are underserved in the housing market."

Information submitted in response to our letter dated [REDACTED] indicates that the organization will provide the following service, all for a fee:

- 1) Educational workshops & consultation
- 2) Consulting or referral resource - concerning financial or health emergencies
- 3) Facilitation for household group to combine forces to set up buying programs such as a food coop designed to reduce costs, energy and contribute to pleasurable activities. Also the buying program will include supplies, equipment; travel, concert and drama series.

- 4) Facilitation of regular meeting for conflict resolution
- 5) Development of a current central referral resource for the benefit of its coop members. This will include trustworthy repairmen, cleaning and yard services.
- 6) Development of a waiting list or a ready pool of cooperative participants which offers some measure of liquidity for the owner : She can sell the coop quickly by resorting to the Waiting List. Middle or moderate income people cannot afford to have their money tied up.

██ has a special relationship with ██████████, which is a for-profit entity formed by ██████████. She is the sole owner and officers of ██████████ and the president and founder of ██████████. ██████████ is a cooperative association and was established for the single purpose of developing a pilot cooperative house. Among clients of ██████████, ██████████ will be one of them. ██████████ has a five-member board of which two are related to ██████████. ██████████ has indicated that cooperative households are rare and that a model was needed to confront formidable obstacles such as zoning which was why she formed ██████████.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Code, may qualify under this section.

Your activities does not further charitable and educational purposes as described in section 501(c)(3) of the Code. Instead, it performs as a commercial consulting firm for a selective number of clients including the president's own for-profit entity [REDACTED]. Your organization furthers the success of [REDACTED] who receives services for its own benefit such as recruiting, training and screening of potential applicants for its cooperative housing.

Even though your organization conducts educational workshops, these activities are incidental to your substantial non-exempt purposes.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.


If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,


District Director

Enclosure: Publication 892